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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,281	02/26/2002	Glenn P. Gillen	C02046US (98302/1C)	5824

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EXAMINER

CLINGER, JAMES C

ART UNIT PAPER NUMBER

2821

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,281	Applicant(s) GILLEN, GLENN P.	
	Examiner Jim Clinger	Art Unit 2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-17-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 6-16, 32-33, 35 and 37-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legg(5,969,693) in view of Bhame et al.(5,911,117).

Claims 1, 6 and 37, figure 2 of Legg discloses an antenna tower with a foundation(below ground), a multistory building(11) mounted on the foundation with a plurality of vertically spaced apart building sections that include at least a bottom section and a top section, a tower(12) supported upon the top of the building(11), and a plurality of antennas(13-15) attached to the tower(12). Legg does not specifically disclose security sections, but does disclose housing electronic equipment in separate rooms(col. 2, line 62 – col. 3, line 3).

Bhame discloses securing a room that contains electronics from other rooms to protect telecommunications equipment(abstract). Figures 2-3 and column 7, lines 34-61 of Bhame discloses a plurality of antenna portals that could be provided on each of the above disclosed building sections, a plurality of antenna cables extending from an antenna to the security area via an antenna portal, and the security areas having

telecommunication equipment that is connected respectively to one of said antenna cables.

Claims 2 and 33, both references disclose a self-supporting tower.

Claims 4 and 35, the tower(51) disclosed in figure 8 of Bhome is a monopole tower.

Claims 7-12 and 38-43, the disclosed structure can function to support antennas that include at least one microwave antenna, at least one whip antenna or at least one panel antenna as recited.

Claims 13 and 44-47, figure 2 of Bhome discloses a single ground ring(46) grounded below the earth's surface next to the building.

Claims 14-15, the multiple building sections disclosed in Legg would be connected to the ground ring(46) disclosed in Bhome if the secured room disclosed in Bhome were used as an equipment room in the structure disclosed in Legg.

Claim 16, the building disclosed in Bhome has metallic equipment that is grounded to the ground ring.

Claim 32, figure 2 of Bhome discloses an open tower(3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use secure equipment rooms as disclosed in Bhome in place of the unsecure equipment rooms in the structure disclosed in Legg to protect the electronic equipment as disclosed in Bhome.

3. Claims 17-20, 22-31 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legg in view of Bhome and further in view of Hill(6,131,349).

Claims 17-18 and 48-49, figure 6 of Hill discloses sections that would include a plurality of load bearing columns that span vertically from the bottom to the top(52) to support the antenna tower(122).

Claims 19 and 50, figure 2 of Hill discloses a tower with tower legs(40) each of which is supported by a column(52).

Claim 20, see claim 2 above.

Claim 22, see claim 4 above.

Claim 23, see claim 6 above.

Claims 24-29, see claims 7-12 above.

Claims 30-31, see claims 14-15 above.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the load bearing columns disclosed in Hill with the structure disclosed in Legg and Bhame to support an antenna tower as disclosed in Hill.

4. Claims 3, 5, 21, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legg in view of Bhame and Hill, and further in view of Miller et al.(4,912,893).

Claims 3, 5, 21, 34 and 36, figure 1 of Miller discloses a guyed tower

It would have been obvious to one of ordinary skill in the art at the time of the invention to use guy wires as disclosed in Miller with the tower disclosed in Bhame for improved stability.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16, 21-35 and 40 of U.S. Patent No. 6,351,250. Although the conflicting claims are not identical, they are not patentably distinct from each other because the recited claims are a slight and obvious modification of the below referenced claims of Patent No. 6,351,250.

Claims 1-16 and 32-47 correspond to claims 1-16 of Patent 6,351,250, respectively.

Claims 17-31 correspond to claims 21-35 of Patent 6,351,250, respectively.

Claim 48 corresponds to claim 40 of Patent 6,351,250.

Claims 49-50 correspond to claims 22 and 23, respectively.

Drawings

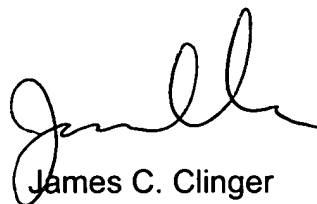
7. Figures 8 and 9 of the drawings filed in this application have hand drawn reference numbers that must be corrected.

Correspondence

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jim Clinger whose phone number is (571) 272-1820.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center whose telephone number is (703) 308-0956.

Papers related to Technology Center 2800 applications only may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is (703) 872-9306.



James C. Clinger